IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 61 (M/S) of 2006

(Under Article 227 of the Constitution of India)

District Haridwar

1. Hashim Khan, S/o Bundu Khan

2. Masrur, S/o Mashkur Khan

3. Rashid, S/o Mashkur

4. Sajid, S/o Mashkur Khan

All residents of village Ranipur, Pargana Jwalapur, Tehsil and District Haridwar. ….Petitioners

Versus

1. Additional Chief Revenue Commissioner, Uttaranchal, Dehradun.

2. Gaon Sabha, Bhadrabad, through its Pradhan Pargana Jwalapur, Tehsil and District Haridwar.

3. State of Uttaranchal through Collector, District Haridwar

4. Bharat Heavy Electricals Limited, Ranipur, Haridwar, through General Manager, Bharat Heavy Electricals Limited, Ranipur, Haridwar, District Haridwar, ……Respondents.

Mr. Dharmendra Barthwal, Counsel for the Petitioners

Dated 20.6.2006

Hon’ble Rajesh Tandon, J.

By the present writ petition, the petitioners have prayed for a writ of certiorari, quashing the order dated 13.1.2006.

Briefly stated, a suit under section 229 (b) of U.P.Z.A. and L.R. Act was filed by the petitioners for declaration of bhumidhari rights over the land being khasra No. 511/1 measuring 5 Bigha, and 5 Bishwa in village Ranipur being suit No. 57 of 2000. Written statement was filed by the respondents. Suit of the petitioners however was dismissed, thereafter first appeal was also dismissed. Petitioners have preferred the second appeal. During the pendency of the appeal petitioners have preferred an application under order 41 rule 27 of code of civil procedure seeking permission to produce the documents mentioned below :-

"One is the certificate issued by the Land Acquisition Officer dated 9.8.1963, incicating therein Khasra Nos. of the land acquired for respondent no.4 it is important to mention that in this certificate Khasra No. 511/1 is not mentioned. The second document sought to be produced is an affidavit filed by the Manager (Personnel & Law), B.H.E.L. before this Hon'ble Court in Writ Petition No. 490/02, wherein B.H.E.L. has mentioned the Khasra numbers acquired from petitioners and this affidavit does not contain disputed Khasra No. 511/1."

Application was rejected by the Second Appellate Court. The proper Course will be to permit the petitioners to file the certified

copies of both the documents and proper opportunity may be given to the respondent to controvert the same.

Subject to aforesaid observation, writ petition is disposed of. No order as to costs.

Dated 20.6.2006 (Rajesh Tandon, J.)